THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 3918 of 2004

MONDAY, THE EIGHTH DAY OF AUGUST
TWO THOUSAND AND FIVE

Between:

Madana Ramamurthy, S/o. China Venkataiah,
R/o. Mandala Indla, Village, Chevireddipalli, Gram Panchayat, Venkatagiri Mandal, Nellore District.

..... PETITIONER

AND

1 The District Medical & Health Officer, Nellore, Nellore District. And others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

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WRIT PETITION NO : 3918 of 2004

O R D E R:

This writ petition has been filed by M.Rama Murthy, with a prayer to issue a writ of Mandamus declaring the action of the respondents 1 to 3 in not prohibiting the 4th respondent from running the Mill in the residential locality and not taking action against the 4th respondent as per the resolution No.13 dated 17-06-2003 passed by the Gram Panchayat as illegal and arbitrary.

The petitioner is the resident of Mandala Indla village, Chevireddipalli Gram Panchayt, Venkatagiri Mandal, Nellore District. His grievance is that the 3rd respondent-Gram Panchayat having passed the resolution directing the 4th respondent to shift the mill, has not taken any action to implement the said resolution.

The 4th respondent filed counter affidavit. In the counter affidavit it is stated that he obtained permission to establish oil rotary and flour mill from the concerned authorities such as Inspector of Factories, Nellore, District Medical and Health Officer, Nellore and the Regional Deputy Director of Town and Country Planning and accordingly, he established the mill in the year 1993. I deem it appropriate to refer paragraph-2 of the counter affidavit

and it is thus:

> It is submitted that it is incorrect so there is no permission from Gram Panchayat to establish the Oil Rotary and Flour Mill. I established the present Mill in 1993 as per procedure established by law. I obtained permission from Panchayat and concerned authorities who are accorded sanction for the establishment of mill by their proceedings (1) Factories Department:- Inspector of Factories, Nellore by proceedings R.Dis.1/1648/93, dt. 30-08-1993 (2) District Medical &Health Officer, Nellore by his proceedings D.Dis.No.G1/HS1/6977/1993, dt. 6-9-1993 (3) The Regional Deputy Director of Town & Country Planning, Nellore, by proceedings Lr.L.Dis.No.1057/93/N1, dt.8-9-1993 which are addressed to the Special Officer, Chevireddipalli Gram Panchayat, Chevireddipalli. After perusing the sanction given by the authorities by the concerned authorities the Gram Panchayat sanctioned permission to establish the mill. In this connection I submitted representation to the concerned authorities with no objection from the residents of the locality and the authorities accorded sanction. The counter of the 3rd respondent also reflects the same.

Heard the learned counsel for the petitioner as well as the learned counsel appearing for the 4th respondent.

Learned counsel for the petitioner submits that the 3rd respondent-Gram Panchayat having passed resolution directing the 4th respondent to shift the mill has not taken steps to implement the same and therefore, the writ petitioner is compelled to approach this Court for necessary direction to the 3rd respondent-Gram Panchayat.

Per contra, the learned counsel for the 4th respondent submits that the 4th respondent has obtained necessary permission from the concerned authorities and therefore, the resolution passed by the 3rd respondent-Gram Panchayat is not legal and proper and the same cannot be given effect.

Under Section 122 of the A.P. Panchayat Raj Act, (for short 'the Act') the Gram panchayat is empowered to issue necessary directions to the persons who cause nuisance.

The question whether the resolution passed by the 3rd respondent-Gram Panchayat in directing the 4th respondent to shift the premises is legal or proper cannot be gone into in this writ petition. It is suffice to say that the 3rd respondent-Gram Panchayat passed

necessary resolution on

17-06-2003 directing the 4th respondent to shift the Mill from the locality. If the 4th respondent is aggrieved by the resolution, he can work out his remedy provided under the A.P.Panchayat Act. Since he has not chosen to file any appeal before the concerned authorities, he cannot be permitted to contend that the 3rd respondent-Gram Panchayat is not empowered to pass the resolution dated 17-06-2003. So long as the resolution is in force, the 3rd respondent-Gram Panchayat is under obligation to give effect to the same.

Accordingly, the writ petition is disposed of directing the 3rd respondent-Gram Panchayat to give effect to the resolution No.13

dated 17-06-2003. No costs.

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08-08-2005

Mjl/*